

REMARKS

The above amendments and following remarks are responsive to the Office Action dated August 13, 2003. Applicants respectfully request reconsideration of the application in view of the foregoing amendments and following remarks.

I. Status of the Claims

Claims 1 through 82 are pending. Claims 1-41, 46, 56, 60, 61, 73, 74 and 78-82 are currently amended. No new matter has been added. Support for these amendments can be found throughout the specification including, *inter alia*, page 25, paragraphs 2 and 3. Entry and consideration of this Amendment are respectfully requested.

II. Examiner Interview

Applicants would like to thank the Examiner for the courtesy extended during the telephone interview held on October 8, 2003. During the interview, the claims were discussed with reference to claims 1, 3 and 8. Applicant discussed the relevance of the claimed (1) timing of the opportunity to submit an entry to win a prize until the advertisement has first been displayed for a period of time without such opportunity, and (2) limiting of the length of time the opportunity is available so that the opportunity is a fleeting one. The Examiner indicated that the discussed amendments clarifying the claims appeared to overcome the cited art of record. The Examiner indicated that this request for amendment after final would be favorably considered and likely entered.

III. Office Action Mailed August 13, 2003

A. Objection to the Drawings

In the Office Action dated August 13, 2003, the Examiner indicated that the drawings were informal but acceptable for examination purposes. Accordingly, Applicants will provide formal drawings upon indication of allowability.

B. Rejection of Claim 1 Under 35 U.S.C. 101

Claim 1 has been rejected under 35 U.S.C. §101 for same invention type double patenting for claiming the same invention as parent application 09/568,292. Applicants note that in an April 24, 2003 telephone interview and Examiner's response to arguments in the Office Action mailed August 13, 2003, the Examiner clarified the rejection as a provisional rejection since it is based on a pending application. As previously indicated, Applicants will amend or cancel claims of the 09/568,292 application as necessary to overcome this rejection upon indication by the Examiner that the claims of the present application are otherwise allowable.

C. Response to Rejection of Claims 1-82 Under 35 U.S.C. 103(a)

Claims 1-77 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,791,991 to Small ("Small") in view of U.S. Patent No. 6,529,878 to De Rafael ("De Rafael"). Claims 78-82 have been similarly rejected. As to Claims 4-21, 24-40, 42-59, 62-72, and 75-77 the Examiner further maintained Official Notice that both the concepts and advantages of the elements and limitations of the claims were well known and expected in the art at the time of the invention.

1. Official Notice

The Examiner maintained that “Applicants’ failed to seasonably challenge the Official Notice” and further that “said Official Notice evidence is deemed admitted, and no further references are required in support of the Official Notice evidence.” During the October 8, 2003 interview, Examiner asked Applicants to remind the Examiner, in this communication, to correct the prior taking of Official Notice.

2. The Claims Are Not Obvious Over Small in View of De Rafael

Applicants submit that the claims as currently amended are distinguishable from the cited references and respectfully request reconsideration in view of the October 8, 2003 interview and the amendments adopted herein.

Applicants have amended the claims as discussed with and suggested by the Examiner during the October 8 interview. The Examiner’s Interview Summary indicates that the claims would possibly still have been too broad in view of the cited references. Accordingly, to expedite prosecution, Applicants have provided additional amendments to further clarify the claims over the cited references.

Applicants’ claims, as amended, claim a system and method of rewarding a viewer for viewing advertisements, wherein, (1) the timing of the offer of an opportunity to submit and entry to earn a reward is delayed so that the opportunity is only available after the advertisement has first been displayed to the viewer for a period of time without such opportunity, and (2) the opportunity is fleeting so that the user must focus on the advertisement to avoid missing the fleeting opportunity.

In the August 13, 2003 Office Action, the Examiner stated that Small’s teaching

of a "consumer scrolls through product categories" discloses that the viewer has watched the advertisement for some period of time. However, as discussed during the interview, the selection of "product categories" in Small only permits the viewer to scroll through categories of products (e.g. cars, sporting goods, cereals, etc.). The categories disclosed in Small are not advertisements. Thus Small does not teach or suggest the claimed advertisement viewing period before offering an opportunity to submit an entry to win a prize.

In the Office Action the Examiner also stated that De Rafael "proposes advertisement viewing time modifications that would have applied to the teachings of Small". The Examiner cited De Rafael (col. 7, 11. 47-62) which states "[t]his information can be as straightforward as the average (mean) number of users 12 who viewed a certain advertisement 24 within a certain period or can be more complex." As discussed during the October 8, 2003 interview this disclosure relates solely to the compilation of statistical data regarding the number of users who viewed an advertisement over a period of time, but does not teach or suggest the timing of the display of an offer to the viewer as claimed in claims 1-85 as amended. Thus DeRafael does not teach or suggest the claimed fleeting opportunity to submit an offer.

As acknowledged by the Examiner during the October 8, 2003 interview, neither Small nor DeRafael teach or suggest the use of timing in the display of the advertisement and offer. Specifically, Small and DeRafael lack at least the claimed timing control limitations to delay the offer of an opportunity or to offer a fleeting opportunity to submit an entry to win a prize.

In view of the October 8, 2003 interview, and foregoing remarks and amendments, Applicants respectfully submit that claims 1-85 as amended are patentably distinct from the cited art, taken alone or in combination and that the application is in condition for

allowance. Accordingly, reconsideration and withdrawal of the rejections and allowance of the claims as amended is respectfully requested.

CONCLUSION

Based on the foregoing remarks and amendments, it is respectfully submitted that the claims as amended are patentable and in condition for allowance for which action is earnestly solicited.

If any issues remain, or if the Examiner has any suggestions for expediting allowance of this application, he is respectfully requested to contact the undersigned at the telephone number listed below.

Favorable consideration is respectfully requested.

AUTHORIZATION

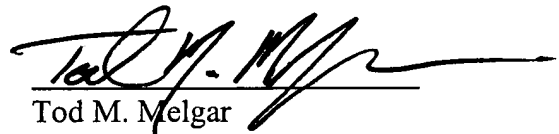
The Commissioner is hereby authorized to charge any additional fees which may be required for this amendment, or credit any overpayment to Deposit Account No. 13-4500, Order No. 4022-4001US1. **A DUPLICATE OF THIS DOCUMENT IS ATTACHED.**

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: October 28, 2003

By:


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